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Commonwealth of Massachusetts.

MINORITY REPORT. — NO. 1.

The undersigned, being unable to agree with the majority of the committee, beg leave to submit the following Report: —

The question is, as stated in the terms of the original order of 5 May, 1877, "What action is it expedient for the State to take in relation to its investments in the stock and securities of the New-York and New-England Railroad?"

To deal with this question intelligently and satisfactorily, it is necessary to give a brief statement of the condition of this road, of the interest which the State now has in it, and of the way in which the subject, which is now before the legislature, was introduced for its consideration.

The New-York and New-England Railroad Company is a corporation organized in 1873 by the Berdell bondholders, so called, because their bonds were secured by a mortgage to Robert H. Berdell and others of the Boston, Hartford, and Erie Railroad Company. By virtue of legal proceedings, which have been ratified and confirmed by the four States of Massachusetts, Rhode Island, Connecticut, and New York, within whose limits it is established, it has succeeded to the property formerly owned and held by the Boston, Hartford, and Erie, with all its rights and privileges, and subject to all its duties, liabilities, and restrictions.

Its property consists, first, of the road from Boston to	MILES.
Willimantic and branches	105.28
Brookline to Woonsocket	33.75
	139.03

All of which is completed and operated by the New-York and New-England Railroad Company.

This division of the road was valued by the Railroad Commissioners in their report to the legislature in 1877 (House Doc. No. 276 of 1878) (see exhibit, p. 180), including therein all their equipments and personal property on hand, at .	$5,632,459 68
From which the Commissioners deducted their liabilities; viz.	1,842,466 09
Balance of assets above liabilities . .	$3,789,993 59

The New-York and New-England has also the right to redeem the following property; viz.: —

The road from Providence to Waterbury and branches (130.25 miles), which is now held and operated by trustees, and is known as the Hartford and Providence and Fishkill division.

This part of the road was valued by the Railroad Commissioners in their report before referred to (see exhibit, pp. 179, 180), including their personal property on hand, at	$5,463,015 78
Liabilities	2,441,825 48
Balance of assets over liabilities . . .	$3,021,190 30
The New-York and New-England also owns an unfinished road from Waterbury to Hopewell Junction of 65 miles, which the Railroad Commissioners valued, subject to deductions for land damages, at (see p. 180)	$715,000 00
Total value of the property of the New-York and New-England Railroad Company, as estimated by the Railroad Commissioners in 1877, was .	$11,810,475 46
From this deduct liabilities	4,284,291 57
Net value of the entire property as estimated by the Commissioners, not treating Berdell bonds or stock as a liability (see p. 180) . . .	$7,526,183 89

This estimate was made in the spring of 1877. Since then, the assets of the road, including herein both divisions, have been increased since their last annual report; so that, at the close of the railroad year for 1877, the entire property as estimated by the Railroad Commissioners, irrespective of liabilities, would be nearly $12,000,000.

But it should be observed that this valuation is somewhat arbitrary, being much less than the actual cost, or intrinsic value, of

the property, and much more than its value when measured by its present income-earning power, neither of which tests of value is satisfactory when estimating this property as judged by the past. But it is to be presumed that the Commissioners, having due regard to all the circumstances, — the actual cost, the prospective business of the road under favorable conditions, and its present income, — placed such value on the property as they considered just and reasonable.

It will be perceived also, upon an examination of this report of the Railroad Commissioners, that after deducting from the total liabilities of both divisions of the road the value of the personal property on hand, exclusive of tools, machinery, rolling stock, and every thing belonging to equipments, the total debt of the entire road was $3,678,839.27.

In this property the State has heretofore invested $3,600,000, for the ultimate payment of which, exclusive of interest, a provision has been made by the establishment of a sinking-fund, which, with its annual accumulation of interest, will equal the debt at maturity. But the bonds which the State received from the Boston, Hartford, and Erie Railroad Company at the time of the loan, in exchange for its bonds, were, in accordance with the terms of its mortgage, after the organization of the creditors of the Boston, Hartford, and Erie into the present company, converted into stock, which is entirely unproductive; and the State is therefore obliged to pay out annually $180,000, for which it has no security or indemnity, except this depreciated and unproductive stock. The scrip which represents this investment of $3,600,000 was issued about ten years ago, in pursuance of the Act of 1867, Chap. 285; and the State has been paying out since then, yearly, $180,000 in discharge of its interest obligations. And with the feeling, that, with the annual drain on the treasury of a sum equal to about one-sixth of the State tax for this year, something should be done in the premises, an order of inquiry into the affairs of the New-York and New-England Railroad Company, was, March 1, 1877, introduced into the House by the Committee on Finance, which was the origin of the Railroad Commissioners' Report. It appeared from that report, and the exhibits connected therewith (see House Doc. No. 276, p. 163), that, in the judgment of those responsible for the administration of the road, it was of the first importance that the company should have, —

1st, The means of divesting the road of all underlying liens.

2d, The means of redeeming that division of the road held and

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operated by the trustees of the Hartford, Providence, and Fishkill mortgage.

3d, The means of completing and equipping the unfinished portion of the road from Waterbury to the Hudson River.

At that time, which was near the end of the session of last year, the Committee on Finance conferred with Mr. Hart, the President of the New-York and New-England Railroad, in regard to the prospect and affairs of the company, and also made such inquiry into its condition and needs as it was convenient then to make; and, upon consultation, the committee, only not unanimously, came to the conclusion that it was probable that a scheme could be framed which would save the State from an annual loss for twenty years on the interest payment of $180,000, and enable the company to improve materially the condition and character of their property, upon terms much more favorable to them than they could hope to obtain from any other source. Accordingly, the committee, on May 5, 1877, submitted the order for the appointment of a committee to sit during the recess, and report to this legislature "what action it was expedient for the State to take in relation to its investments in the stock and securities of the New-York and New-England Railroad;" which order is the origin and the justification of all subsequent proceedings. It should, therefore, be distinctly stated, that the officers of the New-York and New-England Railroad are not here begging for relief, or still worse, as it has been said in some quarters, attempting by impudence or fraud to steal money from the treasury, but are here in response to the invitation of the State, to consider if it be not possible to devise a scheme which will be of some advantage to the road, and enable the State indirectly to obtain indemnity for liabilities heretofore assumed. To represent this proceeding as a discreditable attack by a bankrupt corporation on the treasury of the State is either purposely to raise a false issue, or to misconceive the origin and nature of this inquiry.

The scheme submitted by the New-York and New-England Railroad Company is this: The State shall lend the company six million dollars. Four millions of this shall be applied to the extinguishment of liens, encumbrances, and debts now outstanding upon the property of the road, which will enable the company to redeem and get possession of the entire road from Boston and Providence on the east to Waterbury on the west; and the remaining two millions of the loan shall be applied to the completion of the unfinished road from Waterbury to the Hudson River. For this loan the company shall give the State as collateral security, the entire issue of the ten million bonds, secured by a mortgage on

the whole property, and shall undertake, in consideration of said loan, to pay the amount thereof at maturity, with interest semi-annually at five per cent, and also to pay the State, till the loan becomes due, the amount of $180,000 annually to indemnify the State for its annual interest payments on account of its previous loan to the Boston, Hartford, and Erie Railroad. This, in effect, is an offer to hire $6,000,000 of the State at eight per cent, secured by a first mortgage on the whole road, with all its equipment, and, if the State lends the money upon these terms, it will be a very favorable arrangement for the road, more favorable than to negotiate their seven-per-cent bonds at eighty per cent, as will appear by the following comparison: —

Interest to the State, $480,000 for 22 years . .		$10,560,000
Sale of bonds at .80 ($7,500,000 @ .80)	$6,000,000	
Twenty-two years' interest . . .	11,550,000	
Discount	1,500,000	
		13,050,000
Gain to the road by loan from State . . .		$2,490,000

It is nearly equivalent to negotiating their bonds at ninety cents. The advantages of such a loan are mutual, and amply sufficient to justify the transaction when looked at in the interest of either party, if the State cannot obtain indemnity by the loan of a less amount, and if the security of the mortgage be perfect, and the future of the road so assured by this loan that it is morally certain that the State will never again be compelled, for its own protection, or to assist the road in any way, to make an additional loan.

The amount required to meet the annual interest payment, when the loan shall be complete and the road finished to the Hudson River, would be $480,000, one-fifth more than the net earnings of the past year in the present condition of the road. The officers of the company are confident, that, with the increase of business which would follow the completion of the road to the Hudson River, they could earn the required amount without difficulty; and the majority of the Railroad Committee are of the same opinion, and have therefore recommended a loan of $6,000,000, and reported a bill to that effect. Indeed the figures of the last five months show an increase over the corresponding months of the last railroad year, which indicate actual net earnings the present year of more than five hundred thousand dollars.

But, without attempting to impeach the force of the reasoning

by which the majority of the Railroad Committee justify their conclusion, the undersigned, looking at the matter exclusively in the interests of the State, and considering only whether or not the exigencies of the New-York and New-England Railroad present an opportunity for the State to save an annual tax of $180,000 by a loan which will be attended with no risk, and upon terms which will impose no hardship upon the road, are of the opinion that the end to be attained by the State can be accomplished by a smaller loan than $6,000,000, and therefore are opposed to the passage of the bill reported by the majority of the Railroad Committee.

This case is to be distinguished from any other which has come before the legislature involving a loan to a railroad. The question is, not what the interests of the railroad demand; not whether it be wise to assist railroad enterprise from motives of public policy, to develop the resources of the State; not even whether it be wise to make a loan to a railroad, for the reason which is generally urged in behalf of an unfinished enterprise, — viz., that, if you do not go on and finish it, you will lose what you have put in. It is not a case where the amount contributed is to be expended in new work, so that your security is to be found, in part or mainly, from the addition to the construction, the value of which is, to some extent, uncertain and speculative, and dependent upon circumstances, which, at the time of the loan, cannot be clearly estimated or ascertained.

The question is, whether it be possible, in this case, to make a loan to this road upon tangible property already established, and possessing an ascertained value, irrespective of any probable or prospective earnings contingent upon additions or extensions, or any other circumstances not now capable of being distinctly seen and appreciated, by which the State can save an annual tax of $180,000 for twenty-two years, and incur no serious risk of loss of any part of the loan. If it be possible to do this, if the opportunity now offers by which it can be done, can there be any doubt of the expediency of such an act? Is it not the duty of the State to do it? not for speculation, not for profit, not to grant relief to a railroad corporation, but simply to save an annual tax for twenty-two years of $180,000. That is the motive which can justify the State in making this loan: every thing else is incidental. This consideration is to be kept in mind when dealing with this question; for the opposition to any loan has, in some quarters, most industriouly attempted, by repeated assertions, to obscure and confound the real issue by pretending that this movement was nothing but an attempt on the part of an unscru-

pulous corporation to rob the treasury. The minority of the Railroad Committee, in the dissenting report, after proving very satisfactorily that it was doubtful policy for a State to aid railroads and other public enterprises, with a view to the development of its resources, proceeds to add, "But what shall we say when the object is speculation and profit only, which is exactly the proposition before us?" It is difficult to perceive how the parties to that report could have fallen into such an error. Can it be said with any truth, when a creditor lends money to a debtor for the simple purpose of saving his debt, and upon the express assurance that he desires nothing but to be made whole, that his object is profit or speculation? Is it not simply indemnity? Does a sagacious and prosperous merchant hesitate to lend money to a debtor where the security is ample, and the prospect of a final payment in full morally certain? And is such a transaction between merchants, when made solely to save a bad debt, to be properly described as a transaction for profit or speculation? And it is submitted that the propriety of such a transaction on the part of the State — when the object is simply indemnity, and escape from an annual tax for a large amount, and the security of the loan is ample — cannot be successfully denied.

The question is, Are the conditions of the loan so satisfactory that it is morally certain that the payments of the interest and of the principal will be met so promptly, that there will be no occasion to enforce the provisions of the mortgage, and take possession of the property by the trustees for the purpose of foreclosure?

The undersigned, after giving the subject the most careful study and reflection, influenced by the considerations above stated, and endeavoring to be governed in their decision by what they believe to be the true interest of the State, submit the following proposition; viz.: —

It is proposed to lend the New-York and New-England Railroad Company the sum of four millions of dollars for the purpose of enabling this company to pay its debts, and to discharge or take up all existing liens and encumbrances on its road and equipment, and especially to enable it to redeem the Hartford, Providence, and Fishkill division of the road, and obtain the possession and control of this division; so that the entire road may be put under one administration.

In consideration of this loan, the railroad company is to become responsible to the State for its payment, and of the interest thereon which the State may be required to pay, and also to agree to pay the State yearly, as the same may accrue, the interest which the State is now required to pay on account of the

loan to the Boston, Hartford, and Erie of $3,600,000. And, to secure the performance of this agreement on the part of the New-York and New-England, it shall deposit with the State treasurer the entire amount of its ten million seven-per-cent bonds, secured by mortgage of 1st of January, A.D. 1876. And, in consideration of the deposit of these bonds as collateral security for the performance of its agreement in relation to this loan by the New-York and New-England Railroad Company, the State shall execute and deliver to said company a release of such portion of the premises included in said mortgage as lies west of Waterbury, the present terminus of the completed road.

It is further proposed that the stock now held by the State, which will undoubtedly be considerably enhanced in value, in case a loan should be made, should be converted in some way, into a sinking-fund for the payment of the principal of the loan at maturity.

It is to be distinctly stated that this loan is to be made only for indemnity to save the State from an annual tax for twenty-two years of $180,000. It is to be secured by a mortgage which shall be limited to the finished road from Boston and Providence to Waterbury. It is to be understood that it is not to be construed as an act of aid or relief to the Railroad Company, or as committing the State to any proposed extension to the Hudson River.

There being no motive but indemnity, the loan should not be made, if the security be not unexceptionable. No secondary consideration of public policy can supply any defect in the security considered simply as a business transaction.

What, then, is the security? It is a bottom mortgage on two hundred and sixty-one miles of railroad for a loan of four million dollars. This property (including its equipment, appraised at $1,024,655) was valued by the Railroad Commissioners in their report to the House in 1878 (see House Doc. No. 276) at $11,095,474.46, and the property is worth more to day than it was at the time of that valuation. But, as has been said, that valuation was, in part, arbitrary, and should not for this purpose be received as trustworthy. In this relation, judging of the value of the property as security for a State loan, it should be tried by the severe test of its income-earning power, which, considering the circumstances of the road, would not be fair, except in this case, where nothing should be done without great caution.

The income last year, as stated by Mr. Goodspeed, the accountant of the Railroad Commissioners, was $400,322.22, which is six per cent on $6,672,037 ; so that this property, judged by this stand-

ard, the hardest that can be applied, during a year of unexampled depression in business, is worth nearly $7,000,000.

But it was shown at the hearing that the net earnings of the entire road, including the Hartford, Providence, and Fishkill division, for the five months ending with the month of February last, was a little over $40,000 more than it was for the corresponding period in 1877. And if this rate of increase continues for the remainder of the year, which is confidently anticipated, the net increase for the entire year, as the summer and early fall months are the most profitable, will be over $100,000.

Calling the net income for this year $500,000, the entire property of the road would be worth, at six per cent, $8,333,333.

But a loan of four million would inevitably increase the net income, as it would secure a uniform administration, avoid the conflict and competition which must of necessity, to some extent, exist where the governing power is twofold, and, by dispensing with one staff of officers, lessen the operating expenses. The State can now negotiate its four-per-cent gold bonds at par. The interest on four million dollars at four per cent would be $160,000 a year, which, added to the yearly interest on the loan to the Boston, Hartford, and Erie of $180,000, would amount to $340,000, sixty thousand dollars less than the New-York and New-England (including the Hartford, Providence, and Fishkill) earned last year, and one hundred and sixty thousand dollars less than it will probably earn this year. Can there be any doubt, then, that this property, when brought under one management, which would increase its income, would be amply sufficient to secure a loan of four millions, at eight and a half per cent, which is exactly equal to $340,000, the amount which would be due yearly to the State on account of this loan?

But it may be said, that, if the net earnings of this road were last year four hundred thousand dollars, it was all appropriated in such a way that it would not have been available for the payment of this interest of $340,000.

It is true that this money was expended for various purposes; but an inspection of the reports of the New-York and New-England Railroad, and of the Hartford and Providence and Fishkill, for 1877, will show that it would have been easy for them from their joint net earnings to have paid $340,000 interest.

It appears by the returns that the New-York and New-England paid last year, as interest and discount		$80,486 16
The Hartford, Providence and Fishkill paid for interest		174,061 12
Whole sum paid for interest last year		$254,547 28
It appears also, from the Railroad Commissioners' returns, that the New-York and New-England expended last year, at the junction at Franklin, in construction	$33,718 76	
Discharging encumbrances	28,881 23	
Bad debts, charged off	33,375 61	
		95,974 23
		$350,521 51

It is clear from this exhibit that the interest which would be due on this loan, over and above what was in fact paid for interest from their joint earnings last year, could be easily paid, without neglecting any thing which concerned the value of the road and equipment as security.

The Hartford, Providence, and Fishkill division of the road is now in excellent condition, — as good a single-track road as there is in New England. The equipment is also of a first-rate quality, and larger than is needed for the transaction of its present business. The condition of the New-York and New-England, say the Railroad Commissioners in their report to the House (House Doc. No. 276) for 1878, "has been greatly improved in all respects within the last few years: the property is well managed, and the expenditures are carefully and judiciously made."

If the property should earn this year, including both divisions, $500,000 net, which it probably will, it would be able to pay $340,000 for interest on the loan, and have $160,000 left for improvements, and additions to its construction.

It seems, therefore, to the undersigned, as certain as any thing of this nature can be, that if the debts are paid, and the encumbrances are discharged, and this property put under one management, it will be able to meet its interest payments on the loan of $340,000 a year, without difficulty, and have a considerable sum left for other purposes.

Now, let us look at this question from the other side.

The State, while condemning the policy of aiding railroads as a distinct object of legislation, by pecuniary grants, cannot be unmindful of the fact that her own welfare is bound up in the prosperity and success of the great lines of transportation which have added so much to her wealth and commerce: she cannot, therefore, afford to drive a hard or unconscionable bargain in any case which concerns their interests. If the plan proposed involves any injustice or hardship to the interests of the New-York and New-England Railroad, when properly considered, it should be rejected, however strong the security, and however certain the prospect of accomplishing the desired result.

What, then, will the road gain by a loan of four millions, to be applied to the payment of its debts and the discharge of its encumbrances, other than the substitution of one creditor in place of other creditors?

It will gain (A) the possession of the Hartford, Providence, and Fishkill division of the road, and the control which possession carries with it.

1. The gain to be derived from the additional business which will be brought over the road from Willimantic to Boston, which is now done over other roads.

2. The gain to be derived from unity of administration, and from the increase of business which will naturally flow from the change of policy where a railroad passes from the hands of trustees (whose duty it is only to take good care of the property, and execute their trust in good faith) into the possession of persons whose ambition and duty it is, by their energy and activity and enterprise, to develop its resources, and extend its business, so as to make it a financial success for the stockholders.

3. The gain to be derived from the reduction of general expenses, and the saving of official salaries, one staff of officers being sufficient for the business of the entire road.

4. The gain to be derived from avoiding the conflict of interest which now, to some extent. exists in the present separate management of the two divisions of the road.

It will also gain (B) the important advantage of funding all its liabilities, which will materially improve its credit, and in all respects place the company in a very much stronger position than it now holds.

For this loan of four millions the New-York and New-England Railroad Company is to give the State a first mortgage on the finished portion of the road, and to pay for the use of the money interest at the rate of eight and a half per cent, being the amount required to indemnify the State for its interest liabilities under

both loans. To prove that there is no element of hardship or usury in such a bargain, it is only necessary to compare such a loan with a loan obtained by the company by negotiating their mortgage bonds at eighty per cent, which would be considered a very favorable operation, under existing circumstances, for the road to make.

By the terms of the loan from the State as proposed, the company will have an annual interest charge of $340,000, and an ultimate debt of $4,000,000. By such a negotiation of its bonds to outside parties at 80 per cent (if it could be effected), it would have an annual interest charge of $350,000 and an ultimate debt of $5,000,000.

But it may be said, that, while this proposition may be very favorable to the railroad company, it will not satisfy them, because it does not provide for the completion of the unfinished portion of their road to the Hudson River.

In what condition, then, will this loan place the company in relation to this extension? It will have an unfinished, unencumbered road-bed, which is valued by the Railroad Commissioners in their Report at $11,000 per mile, upon which it can give other stockholders, or interested parties willing to complete the road, a bottom mortgage, which, for such purpose, would be good security, as it would not only attach to the property already planted, but also to what might be added to it to finish the construction. It will have also available for any purpose the equity in that portion of the road which is pledged to the State; which equity, when the entire road is under one management, will be worth probably five millions of money. The company, therefore, would be in a condition to obtain a further loan, upon reasonable terms of its other stockholders without coming to the State for help. If it should come, it would be met by the answer, that this loan was made by the State for the purpose of obtaining indemnity for the payment of an annual tax of $180,000, and for no other purpose; that the State was inflexibly opposed to lending a single dollar to railroads as a subsidy or measure of relief; and that, if the road was never extended, the object of the State in making this loan was accomplished, as the earnings of the present road were sufficient to meet its demands; and that, if any further funds were needed for any purpose, they must be obtained from private sources. To doubt the sufficiency of such an answer is to suppose the State would yield to the appeals or solicitations of interested parties, unsupported by any considerations except such as may be derived from the adoption of a policy which has been of late in the most emphatic manner repudiated. This supposition, in the present

state of the public mind, admonished as it has been, by the experience of the past, of the impolicy of granting aid to railroads, is inadmissible.

It has been suggested, that, in years to come, if the State would not lend any more money to this company, it might consent, yielding to an importunity that would not be denied, to postpone or subordinate its first lien upon the property, which would be represented as equal to more than double the amount due the State, so as to give the company an opportunity to deal with private parties on favorable terms. But this is to suppose that the State is to repeat the folly of the General Government in the case of the Union Pacific Road, and to make a voluntary surrender of the advantage of the position which it is the object of this loan to attain.

A consolidation of the New-York and New-England with the Boston and Providence has been proposed as the true solution of this question. Their interests are now, to some extent, conflicting; and the advantages of a consolidation, if it could be effected upon terms which should be just to both corporations, would be a fair subject for consideration. But it is apparent that the roads will never voluntarily come together, and that they can only be induced to unite by a kind of argument that it would be inconvenient to resist; and it is safe to assume that the State is not just now prepared to apply any pressure to this end. Mr. C. F. Adams, jun., the chairman of the Railroad Commissioners, who, in his testimony at the hearing before the committee, advocated this remedy, suggested, that, if the parties hesitated to take the hint which was implied in a permissive bill, it might be necessary to quicken their action by some legislation; that, if the Boston and Providence held back, it might be necessary for the State, to save its investment, to put the New-York and New-England Road on its legs. It needs not the faculty of a clairvoyant to perceive that only by some such expedient can these two corporations be persuaded to join their forces. A loan of $4,000,000, in the judgment of the undersigned, instead of postponing or defeating the happening of this event, would be likely to hasten it by putting the two parties more nearly in a position of equality than they now are, and producing a state of facts which would make it more manifestly for the interest of both roads to unite and co operate.

It may be objected by those who hesitate about the expediency of a loan, that, if the security be adequate, private bankers and capitalists would furnish the money. But it must be acknowledged, that no bankers whose funds were not already invested in this enterprise could be expected to touch it, unless they could re-

ceive a handsome compensation, which would yield them a liberal profit, and pay them well for their time and trouble in distributing the bonds among their patrons and customers. It cannot be expected that private parties would neglect to improve the opportunity, and decline to make the best bargain which was possible. An arrangement on such terms, however satisfactory to the banker, would, probably, sacrifice the stock and interest of the State in the road. "It is true, as they say," said Mr. C. F. Adams, jun., in his testimony before the committee, "they cannot get the money from private individuals without sacrificing the securities, and destroying their value." But to infer from this that there is no value in the security would be a great mistake. The banker would not touch it on any terms, if the security were worthless. To allege that he would charge ruinous rates for his services, is only to say, that, when his only object was profit, he would make the most of his opportunity.

The capitalists, whose means are to a large extent already invested in this road, are willing to form a syndicate with the State, if she will take her share, and provide the funds that may be needed to lift the road out of its embarrassment. But such a measure, though beneficial to the road, would not enable the State to accomplish its principal object, viz., to obtain indemnity for the payment of this annual tax of $180,000 a year.

It may be further objected, that, if the security may be regarded as good, the possibility that it might eventually be necessary to take possession of the property under the mortgage is a sufficient reason why the State should not be a party to any loan, as it would be a great misfortune for the State to be saddled with the administration of a railroad. Waiving the consideration that the State is now virtually running the road (the present management being selected by the State, and entirely subject to its influence), the true answer to this objection is, that, when any proposed measure of relief to the State is extremely probable to be attended with the most beneficial consequences, it is no objection to it, that it may possibly miscarry. The most improbable events are possible. And can there be any reasonable doubt that a loan of $4,000,000 would be fully secured by a mortgage of this entire finished road, and that, when the two parts were joined, and worked under one management, the income will be considerably increased beyond what it is now, which is more than sufficient to meet the annual interest payment?

It may be objected to the proposed loan that the title of the New-York and New-England Railroad Company to this property is doubtful; but as this title has been thoroughly explored by the

ablest lawyers in Massachusetts, Rhode Island, and Connecticut, and pronounced to be good, it is hardly necessary to consider this objection. It is true that there is a bill pending in equity, alleging that the title of this company is bad, by reason of fraud in its inception. It looks very much as if the bill was brought by parties aggrieved, to enforce a settlement by causing delay; for it is hardly possible that these allegations of fraud in fact, can be true, and not have been known to the parties interested long ago, when it would have been their duty to have intervened, and asserted their right, when the rights of creditors and other persons were before the courts in relation to the affairs of the Boston, Hartford, and Erie. However, in any view, this is unimportant, as no loan is to be made by the provisions of the bill, till the title of the company is examined, and found to be satisfactory.

Other objections may be taken, relating to the geographical location of the road, the possibility of adverse legislation in the States where the road in part is situated, the possibility of being deceived in regard to the condition and character of the road; but none of them seem to the undersigned of sufficient moment to require especial comment. It may be said that the friendly legislation of the last eight years in the other States fully justifies the belief that there is no ground to anticipate or fear any action on the part of the legislatures or the courts of the neighboring States, which will be hostile or adverse to the interests of Massachusetts. In conclusion, therefore, the undersigned, having given the subject the fullest consideration, and having endeavored to separate themselves from all influences which would tend to disturb or improperly affect their judgment, recommend that the State make a limited loan to the New-York and New-England of four millions of dollars; and, to give effect to this recommendation, they report the bill of the Railroad Committee in a new draft as follows: —

E. F. STONE, *Chairman.*

Commonwealth of Massachusetts.

AN ACT

To secure the Interests of the Commonwealth in the New-York and New-England Railroad.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECT. 1. The governor, with the advice and consent of the council, shall appoint three persons, who shall constitute "The Board of Supervisors of the New-York and New-England Railroad" [and who shall hold their offices for the terms of one, two, and three years respectively, from the dates of their respective appointments. The governor shall in like manner, in each year thereafter, appoint a supervisor, to continue in office for the term of three years from the date of his appointment. In case of any vacancy occurring in said board by resignation or otherwise, the governor, with the advice and consent of the council, shall appoint a supervisor for the residue of the term; and he may, in like manner, remove any of said supervisors. The compensation of said supervisors shall be fixed by the governor and council,

one of whom only shall have a stated salary; which compensation, with all the expenses of the board, shall be paid by said railroad company. Said supervisors shall be sworn to the faithful discharge of their duties, and shall keep a true record of their doings and proceedings, and shall make an annual report thereof to the legislature, and shall be provided with proper accommodations at the place of business of the New-York and New-England Railroad Company. Said board shall have the control of all expenditures made in accordance with the provisions of this act; and the governor is hereby authorized, on the application of said railroad company, approved by order of said board, to draw his warrant on the treasurer of the Commonwealth for such sums as may be required, from time to time, to carry out the provisions of this act]. Said board may act, by a majority thereof, at any meeting of the same of which all the members have been duly notified. Said supervisors shall, at all times, have free access to all the books and accounts of said railroad company, and shall audit by themselves, or by an accountant to be designated by them, the books and accounts of the company, and make monthly reports thereof to the governor and council.

Sect. 2. The treasurer of the Commonwealth is hereby authorized to receive from said New-York and New-England Railroad Company nine million six hundred and twenty-four thousand dollars of the bonds of said company, secured by its mortgage to the Boston Safe Deposit and Trust Company, trus-

tee; and is authorized, with the consent of the governor and council, to purchase out of the sums hereinafter appropriated three hundred and seventy-six thousand dollars of bonds now outstanding, and secured by the same mortgage, provided said bonds can be obtained at a reasonable price, together being ten millions of dollars, and being the whole issue of bonds authorized to be issued by said New-York and New-England Railroad Company by chapter two hundred and eighty-nine of the acts of eighteen hundred and seventy-three, approved May fifteen, eighteen hundred and seventy-three, and concurrently authorized by chapter five hundred and fifty of the laws of eighteen hundred and seventy-three of the state of New York, entitled "An Act to extend the time for the completion of the Boston, Hartford, and Erie Railroad by the New-York and New-England Railroad Company," approved May twenty-one, eighteen hundred and seventy-three; and by the general assembly of Connecticut, by an act approved May twenty-nine, eighteen hundred and seventy-three, entitled "An Act concerning the New-York and New-England Railroad Company;" and also by an act passed by the general assembly of the state of Rhode Island at its May session, eighteen hundred and seventy-three, entitled "An Act concerning the New-York and New-England Railroad Company:" and the treasurer is hereby directed to hold the same, when delivered to or if purchased by him, as security for the performance of the agreements hereinafter referred to.

SECT. 3. No expenditure whatever shall be made under this act until an agreement shall have been executed by the New-York and New-England Railroad Company to the Commonwealth in a form approved by the attorney-general of the Commonwealth, and conditioned that the said railroad company shall [pay to the Treasurer of the Commonwealth, on the first day of January, in the year nineteen hundred and three, the sum of four million dollars, or so much thereof as shall be expended under the provisions of this act, and shall further pay to said treasurer the interest which the Commonwealth may have to pay on all sums so expended, such payments of interest to be made semi-annually]; and that said railroad company shall pay all the interest that may fall due after the first warrant shall have been drawn by the governor as provided in the first section of this act, and thereafter as the same shall fall due, on certain scrip heretofore issued by the Commonwealth, which consists of five-per-cent sterling bonds to the amount of seven hundred and forty-three thousand six hundred pounds sterling, payable in London in the year nineteen hundred, being the scrip issued for the benefit of the Boston, Hartford, and Erie Railroad Company; nor until said New-York and New-England Railroad Company shall deliver to the treasurer of the Commonwealth, as security for the performance of the conditions of said agreement, the nine million six hundred and twenty-four thousand dollars in the bonds referred to in section two of this act; and the said outstanding three hundred and seventy-six bonds, if possession thereof is acquired by the

state, as provided in section two of this act, shall by the terms of said agreement be held as a part of the said security by the Commonwealth.

Sect. 4. No expenditure whatever shall be made under this act until an agreement shall have been executed by the New-York and New-England Railroad Company to the Commonwealth, by authority of the stockholders and directors thereof, at meetings duly held for the purpose, in a form approved by the attorney-general of the Commonwealth; that the said supervisors shall be notified by the clerk of said company of all meetings of the directors of said company by the same notice as that given to the directors; and that said supervisors may be present at all meetings of the directors of the company; and further conditioned, that no vote or proceeding of the directors of said company [authorizing the payment of a dividend] or affecting the expenditure of the money herein appropriated, or the security to be pledged therefor, shall be valid or have any force or effect if said board of supervisors shall, upon the day of any meeting at which the same shall have been passed [or on the next subsequent day], notify in writing the directors or the president of said company of their dissent from any such vote or proceeding; and conditioned further, that the deposit of bonds, referred to in section two of this act, shall be pledged and held as security also for the performance of the agreement referred to in this section, and that the said bonds shall thereupon become due and be absolutely forfeited to the Com-

monwealth, to the extent of paying all its indebtedness incurred on account of said railroad company, in case, by any action of said railroad company or otherwise, the terms of this agreement shall be in any manner impaired, or there shall be any violation of the provisions of this act without the consent of the Commonwealth.

Sect. 5. Said board of supervisors is hereby directed, as soon as possible after its appointment, upon the application of the New-York and New-England Railroad Company [and with the consent of the governor and council], to apply and expend of the amounts hereinafter appropriated the sum of four million dollars, or so much thereof as may be necessary to the payment and discharge of all the indebtedness of said company, including the note for two hundred and fifty thousand dollars of the said New-York and New-England Railroad Company now held by the Commonwealth, and to the payment and discharge of all existing mortgages and other debts which are now a lien or encumbrance upon the property of the New-York and New-England Railroad Company, including all encumbrances upon the Hartford, Providence, and Fishkill Railroad, so called, to the end that the New-York and New-England Railroad Company may perfect its title to and acquire the actual possession of all parts of its road, and hold the same subject only to its mortgage to the Boston Safe Deposit and Trust Company, trustee, hereinbefore referred to. Any assignments or re-

leases of any of said mortgages, and all conveyances or instruments in writing, made for the purpose of perfecting the title of the said New-York and New-England Railroad Company as aforesaid, shall be made to the said New-York and New-England Railroad Company; but said supervisors shall stamp upon all bonds or other evidences of debt, at the time of payment thereof, the words, "Held by the New-York and New-England Railroad Company for security of title only; not transferable:" and the same shall never be transferable by said company.

Sect. 6. For the purpose of securing the interests of the Commonwealth in the New-York and New-England Railroad by providing for the payment of its debts, and the removal of all encumbrances upon the road, except that to be held by the Commonwealth as aforesaid, the treasurer of the Commonwealth is hereby authorized and directed to issue scrip or certificates of indebtedness in the name and behalf of the Commonwealth to [such] an amount [as will realize a sum] not exceeding four millions of dollars, said scrip to be redeemable January first, in the year nineteen hundred and three, with interest warrants attached, and to be made payable in such places and in such manner as the governor and council shall decide. All said scrip shall be countersigned in such manner as the governor and council shall designate, and the faith and credit of the Commonwealth is hereby pledged for the redemption thereof; and the sum received from the issue and sale of said scrip is hereby appropriated for the purposes expressed in

this act. All said scrip until the sale thereof, and all the proceeds derived therefrom until disbursed in accordance with the provisions of this act, shall remain in the custody of the treasurer of the Commonwealth. The governor and council are hereby authorized to take all necessary measures for the preparation of said scrip or certificates of indebtedness, and for the sale or negotiation thereof from time to time, with authority to expend such sums of money as may be necessary for the purpose: *provided*, *however*, that, before any scrip shall be issued [or any appointment or expenditure made] under the provisions of this act, it shall appear to the satisfaction of the governor and council that by said appropriation and expenditure the state will secure the removal of all liens or encumbrances on the entire line of road from Boston and Providence to the Hudson River, saving only the mortgage to the Boston Safe Deposit and Trust Company hereinbefore referred to, so that the New-York and New-England Railroad Company will have a perfect title to and acquire the actual possession of the entire line of road, which may be subject to the mortgage aforesaid; and that said Railroad Company will be able to make the payments referred to in section three of this act; and that said Railroad Company can make valid and binding the agreement set forth in section four of this act. And upon the delivery to the Commonwealth of the agreement mentioned in section three of this act, duly executed and approved, and of the bonds therein referred to, the New-York and New-England Rail-

road Company shall be released from any obligation contained in the mortgage to the Boston Safe Deposit and Trust Company, so far as it relates to the now unfinished portion of the road from Waterbury in Connecticut to the Hudson River; and the trustees shall be authorized by the governor and council to discharge from the operation of the mortgage that portion of the mortgaged estate.

SECT. 7. The stock of the New-York and New-England Railroad Company now owned by the Commonwealth is hereby set apart as a sinking-fund, to be held and applied to the payment, at maturity, of the scrip that may be issued by virtue of this Act. And the treasurer of the Commonwealth is hereby authorized, with the approval of the governor and council, to convert the same from time to time, by sale or otherwise, if, in his judgment, it be expedient, into some other form of security, to be held for the purpose aforesaid.

SECT. 8. This act shall take effect upon its passage.

Commonwealth of Massachusetts.

MINORITY REPORT. — NO. 2.

House of Representatives, April 25, 1878.

The undersigned, a member of the Finance Committee, after a careful examination of the Report of the Railroad Committee, and of the testimony upon which that Report is based, and after a personal examination of the property, believes it to be for the true interests of the State that the Bill reported by the Railroad Committee, and contained in House Document, No. 276, should pass, and so recommends.

MATTHEW BOLLES.

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